



Agenda Date
Agenda Item:

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)
SERVICE ELECTRIC CABLE TV OF NEW)
JERSEY, INC. FOR A RENEWAL OF ITS)
CERTIFICATE OF APPROVAL TO OWN,)
OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN THE TOWN OF)
NEWTON, COUNTY OF SUSSEX, STATE OF)
NEW JERSEY)

ORDER ADOPTING INITIAL
DECISION- SETTLEMENT AND
RENEWAL
CERTIFICATE OF APPROVAL

OAL DOCKET NO. CTV 10963-96
BPU DOCKET NO. CE95090432

Robert G. Goode, Esq., Alampi, Arturi, D'Argenio & Guaglardi, Englewood Cliffs, New Jersey,
for the Petitioner.

William Hinkes, Esq., Trapasso, Dolan & Hollander, Newton, New Jersey, for the Town.

BY THE BOARD:

On July 2, 1980, the Board granted Service Electric Cable TV of New Jersey, Inc., under the corporate name of Garden State CATV, Inc. ("Garden State"), a Certificate of Approval in Docket No. 797C-6503 for the construction, operation and maintenance of a cable television system in the Town of Newton ("Town"). The Petitioner has since undergone internal restructuring and has dropped the name Garden State. The company is currently known as Service Electric Cable TV of New Jersey, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on July 2, 1995, it is authorized to continue to provide cable television service to the Town pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Town on September 26, 1994, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On April 24, 1995, after public hearing, the Town adopted an ordinance granting renewal municipal consent to the Petitioner for a term of ten years. On May 2, 1995, the Petitioner informed the Town that it would not accept the ordinance.

On September 20, 1995, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Town. The Petitioner alleged that the Town's ordinance was arbitrary, capricious and its decision was unsupported by the record. The Town filed an answer to the petition on October 5, 1995.

Following lengthy attempts by the parties to settle the matter, on December 9, 1996, the Board transmitted the case to the Office of Administrative Law ("OAL") for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. As a result of negotiations at the OAL the parties reached an agreement. Thereafter, on March 8, 1999, the Town adopted an ordinance amending its prior ordinance by granting renewal municipal consent to the Petitioner for a term that shall expire ten years from the date of issuance of the Renewal Certificate of Approval issued by the Board. On February 28, 2000, the parties entered into the Stipulation of Settlement that resolved the matter. The Stipulation of Settlement, which stated that the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24, concurrently amended the petition, previously filed with the Board.

On February 28, 2000, the Stipulation of Settlement was forwarded to Administrative Law Judge ("ALJ") Richard McGill. On March 14, 2000, ALJ McGill issued an Initial Decision recommending that the Board approve the settlement. The Board received the Initial Decision on March 15, 2000. In the Initial Decision, ALJ McGill found that the Stipulation of Settlement was voluntary, consistent with the law and disposed of all the issues in controversy. ALJ McGill therefore concluded that the settlement met the requirements of N.J.A.C. 1:1-19.1.

The Board has reviewed the Initial Decision of ALJ McGill and the Stipulation of Settlement and FINDS that they are fair and reasonable and in the public interest. Therefore, the Board HEREBY ADOPTS the Initial Decision and the Stipulation of Settlement in their entirety, incorporating the terms thereof, into this final decision as if fully set forth at length herein. Additionally, the terms of the application for renewal municipal consent, as amended to reflect the terms of the settlement, are incorporated into this Renewal Certificate of Approval as if fully set forth herein.

The Board has reviewed the application for municipal consent, as amended, the ordinance and amended ordinances, the petition for a Renewal Certificate of Approval and amended petition and the Stipulation of Settlement. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, these qualifications were reviewed by the Town in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years from the date of issuance of this Renewal Certificate of Approval. The Office of Cable Television finds this term to be of reasonable duration.

5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
6. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
7. The Petitioner will maintain a local business office within the County of Sussex for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 270 Sparta Avenue in the Township of Sparta.
8. The franchise fee to be paid to the Town is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Town. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
9. The Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile ("HPM") figure is 35.
10. In accordance with the ordinance, the Petitioner shall provide public, educational and governmental ("PEG") access facilities. The Petitioner shall provide access time for non-commercial, governmental and/or educational entities in the Town on either its local origination channel or educational access channel, until full capacity requires designation of separate channels for governmental and/or educational access. The cost of taping, editing and producing such community events shall be borne by the Petitioner during the term of this franchise. The Petitioner shall designate a contact person to coordinate the Town's requests for taping with the Petitioner's programming contractors. The Petitioner shall ensure that its educational access provider, Sussex County Community College, or a successor provider, has reasonably sufficient resources to allow the Town to produce programming. The technical resources shall permit, but not be limited to, the use by Sussex County College students to produce a reasonable level of programming concerning the Town.
11. Should the Petitioner, during the term of this franchise period, construct a studio facility, such facility shall be made available, free of charge, to the Town government, Town schools and other local volunteer and non-profit organizations or groups for the purpose of

producing PEG access programming. The Petitioner shall provide free training of such facility, which shall include the equipment contained therein.

12. The Petitioner shall provide the installation of one outlet and basic cable service to the Town's Fire Patrol Building, the Town's First Aid Squad, the Senior Housing Building – Liberty Towers, Newton High School, Merriam Avenue School and Halsted Avenue School, free of charge. The Petitioner shall provide the installation of three outlets and basic cable service to the Town's municipal building, free of charge. The Petitioner shall provide the installation of two outlets and basic cable service to Fire House #1 and Fire House #2, free of charge. Any additional outlets shall be constructed and billed as stipulated in the ordinance.
13. Upon the request of the Town, the Petitioner and the Town's designee shall meet at least annually to review all matters relating to cable television in the Town. The minutes of such meetings shall be provided to the Petitioner and filed with the Town.

Based upon these findings, the Board HEREBY CONCLUDES that pursuant to N.J.S.A. 48:5A-17 and 28, the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

This Renewal Certificate is issued on the following condition.

1. Due to the age of the matter, the Petitioner shall file an updated application form that reflects the current information and revisions to the application that were a result of the settlement, in accordance with all applicable rules and regulations. This information shall be submitted to the Board within sixty days of the issuance of this Certificate.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire ten years from the date of issuance.

DATED: April 19, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

EDWARD D. BESLOW
ACTING SECRETARY